

Date: April 3, 2012

To: Thomas J. Bonfield, City Manager

Through: Theodore L. Voorhees, Deputy City Manager

From: Marvin G. Williams, Director of Public Works

Subject: Petitioned Sidewalk Assessment Rates

Executive Summary

At the direction of City Council at the November 10, 2011 Council Work Session, the Public Works Department has studied the actual construction costs in our most recent contracts for new sidewalk installation in order to recommend a change in the assessment rate schedule. The recommended rate adjustment will bring sidewalk assessments to 90% of the average actual construction costs and bring this assessment calculation more in line with how the current inside the City assessment rate schedule for water and sewer is calculated. When Council orders an improvement, the assessment rate is set even though the improvement may occur years later.

The adoption of this resolution will in effect allow for the continuation of citizen requested sidewalks, in addition to the current Durham Walks! Pedestrian Plan.

Recommendation

The Department recommends that the City Council adopt a resolution amending the sidewalk assessment rate as follows:

That the maximum assessment rate for petitioned sidewalks be raised from \$5.00 per front foot to \$35.00 per front foot. This recommended assessment rate is based on 90% of the average construction cost of \$39.00 per foot. That any sidewalk assessment levied under this new rate will have a payback period of eight (8) years, with an annual interest rate approved by Council at the time of confirmation of the assessment roll. This new assessment rate will apply to projects for which a sufficient petition is returned to the City on or after June 1, 2012.

In addition, that the construction priority of petitioned sidewalks will be determined by the City Manager based on their rank in the adopted Durham Walks! Pedestrian Plan.

Background

The City of Durham currently has three means for sidewalk construction to be accomplished. The first is by developer participation wherein a requirement for sidewalk construction in any given development project is a committed element. The second way is through the

Durham Walks! Pedestrian Plan wherein sidewalk needs are prioritized and ultimately built utilizing funds from a variety of sources. The third option, which is available to properties within the City limits only, is through sidewalk petition by citizens who wish to have sidewalks installed in a specific area and are willing to pay a portion of the construction cost through the assessment process.

Chapter 6, Article 7, Section 77 of the City Charter outlines the procedures for citizens to petition for sidewalk improvements, and the procedures for assessing property for such improvements. The sidewalk assessment rate was last increased in 1985 from \$3.00 per front foot to the current rate of \$5.00 per front foot. This low assessment rate was kept in place as a means to encourage the petitioning and ultimate installation of sidewalks in the City. A limited amount of funding was allocated each year and that, in addition to several bond initiatives, allowed for the construction and assessment of many sidewalks in the City.

As additional information, various sidewalk policies of other major cities in North Carolina were studied and these policies were first provided to Council in March 2011. In our survey of seven (7) different municipalities, we found that they were about equally split as to whether they assess for this type of improvement or not. Those that did assess ranged in price from \$6.00 per front foot up to actual cost. The City of Durham currently assesses at the rate of \$5.00 per front foot. Details for each municipality are outlined below. Current construction cost for the City of Durham is approximately \$39.00 per linear foot, which is in line with those municipalities that reported their per foot construction costs to us.

The surveyed municipalities and their various procedures are outlined below:

1) Raleigh – They do have a petition process for sidewalks. In order to have a sidewalk installed, the street must have curb and gutter in place. The current assessment rate for sidewalk along a roadway that has existing curb and gutter is \$ 6.00 per front foot. For streets where curb and gutter is needed to be installed as a part of the petition process, the assessment rate is \$32.00 per front foot.

2) Charlotte – They have two types of petition processes, an assessment based procedure and a non-assessment based procedure. Both require sponsors. For the assessment based procedure, the sponsor must live in the affected area. For the non-assessment procedure, any resident may serve as the sponsor. Under the non-assessment procedure a sidewalk must be “nominated” for construction. This may be done by requesting a sidewalk nomination form and having at least 25% of those property owners affected by the sidewalk sign in favor of nominating it. Once nominated a public hearing is held and the City circulates a petition for the project. In order for the project to go forward at least 60% of the property owners must sign in favor of the improvement. Once this is done the project waits funding through bond issues and is 100% funded with no assessment. Under the assessment based procedure, a property owner within the limits of the requested improvement may serve as a petition sponsor. At least 51% of the property owners from both sides of the street must sign in order for the petition to be deemed sufficient. Once built (on one side only) property

owners on both sides of the street are assessed based on a per foot rate determined by actual cost. We have been told that to date this process has never been utilized.

3) Greensboro – They do have a petition process. The petition sponsor must live in the affected area. The petition may be for only one side of the street (unless in a school district), with a minimum distance of one city block. In order for a petition to be sufficient it must be returned with at least 51% of affected owners signing. There is no assessment and the city funds 100% of the cost. Even under this scenario they only receive 35% - 40% of the petitions back that are issued.

4) Winston-Salem – They have no formal petition process. Any resident may submit a request for a sidewalk on any city maintained street. Their Engineering Department reviews all such requests and determines the need for that location. If it is deemed eligible it is put in queue to wait funding. There is no assessment and is 100% city funded.

5) Asheville – Has no petition policy or procedure. Through a consultant they have identified areas that need sidewalk and have compiled a list to construct once funding comes available. Any resident may request additional areas be added to the list, and they will be reviewed, but advised that if the area is not already on the identified list, they will only be considered once the existing list has been constructed. The city funds 100% and there is no assessment levied.

6) Fayetteville – They do have a petition process. Any resident may request a petition for any street. Sidewalks can be petitioned for either side, but not both. Property owners on both sides must sign, and the petition must have at least 80% of the owners signing in favor of the sidewalk. Once constructed, the property owners on both sides are assessed at \$10.00 per front foot.

7) Wilmington – Wilmington has no policy or procedure in place for residents to request sidewalk. The city advises residents that sidewalk is placed in areas where needed (identified by the city) as funds become available.

Issues and Analysis

The increase in sidewalk assessment rates will allow citizens to continue to utilize the petitioning process with the understanding that the new rates in effect will cause a significantly steeper financial participation by the abutting property owners in the ultimate construction cost. This will also allow the City to recoup a significant portion of the money it expends to construct petitioned sidewalks.

In addition, the construction priority of petitioned sidewalks will be determined by the City Manager in conjunction with the priority sidewalks in the adopted Durham Walks! Pedestrian Plan. This would allow petition projects ordered by Council to be prioritized by their rank in the Durham Walks! Pedestrian Plan, with the highest ranking sidewalks being given first priority for construction.

Alternatives

- 1) The City Council could refrain from adopting the proposed resolution and maintain the current sidewalk petition process and assessment rates. This is not recommended.
- 2) The Council could choose to suspend the current sidewalk petition process, and rely solely on the Durham Walks! Pedestrian Plan for City sidewalk construction. This is not recommended.
- 3) The City Council could adopt the recommended resolution amending the current sidewalk assessment rates and payback period, and allow the public to continue to petition for sidewalks within the City limits. This is recommended.

Financial Impacts

Assessment revenue would increase proportionally to the rate increase and the relationship to the actual cost of construction would be maintained.

Failure to increase the assessment rate (or suspend the petition option) will potentially result in a continued increase in subsidizing the cost of petitioned sidewalk improvements inside the City.

SDBE Summary

No SDBE implications have been identified for this matter.